

Attorney's Pocket No.: 10559/153001/P7987/Intel Corporation

REMARKS

6/17/03

Reconsideration and allowance of the above-referenced application are respectfully requested.

The claims stand rejected under 35 USC 102(e) as allegedly being anticipated by Aras or Aras in view of Hall.

The rejection states that the limitation of "actually" was the same as before, and that this does not distinguish over the references. However, this is respectfully traversed, and it is respectfully suggested that the rejection does not consider the scope of the claims as a whole. As explained in the official action, Aras determines the predicted bandwidth, that is the bandwidth which will be used. Aras teaches a model for predicting bandwidth. The reason that the word "actually" was selected for addition to claim 1 is the degree with which the word "actual" distinguishes over prediction. People always think of prediction versus actual. A prediction is a guess of what will occur in the future. The actual is what actually does occur. The statement in the rejection that Aras actually uses all the bandwidth previously predicted is simply incorrect. Aras teaches a model from which a prediction of bandwidth can be detected. While it is true that Aras checks the actual bandwidth utilization at a given time see column 5 lines 52-53, he does that in order to predict the bandwidth that will be

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needed in the future. He does not use this determination to broadcast... additional information... using an unused portion of the previously allocated bandwidth. In fact, all that Aras does with his information is improve his model. The last paragraph of column 5 explains that past predictions may be compared with actual bandwidth. However, that information is "communicated to the model shaping... lines 64-65, in order to correct the model and reduce the errors. Aras teaches nothing about using whatever bandwidth is left over to broadcast additional information, as claimed.

Therefore, to summarize the above, Aras teaches nothing about determining actual bandwidth utilization and "broadcasting additional information using an unused portion of the previously allocated bandwidth" as claimed. Therefore, claims like claims 1, 8 and others should be allowable for this reason.

The statement about Hall is understood, and to the extent that Hall simply teaches that it is known to look at a preset percentage allocation, this is understood. However, the patent law requires that in order to combine to references, there must be some incentive or motivation in the references to make the combination. The case of re Nilssen, cited by the official action, makes exactly this point. While it is not necessary that the references suggest the combination, it is certainly necessary that one having ordinary skill in the art would have

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considered making the combination. Hall teaches a power factor control circuit for a control loop. Power factor has nothing to do with bandwidth. Therefore, since the two pieces of prior art are an entirely different fields of endeavor, why would one having ordinary skill in the art think to combine the references to make the combination? The only way that the examiner found this prior art was by looking specifically for a preset limit indicator. If one makes the search for a preset limit indicator, of course, one might find this prior art. However, that requires knowing the answer in advance. One having ordinary skill in the art would not look to power factor control systems for guidance on what to do with allocation of unused bandwidth. The motivation for making this hypothetical combination was hindsight, not the teaching of the prior art.

In summary, then, there is a distinct difference between the present system and the prior art. Specifically, Aras relates to determination of whether bandwidth is used in order to make a prediction about future bandwidth, while the present claims specifically require using that analysis to "broadcast[ing] additional information using an unused portion of the previously allocated bandwidth". Moreover, the hypothetical combination of references are from such disparate fields that it is respectfully suggested that the combination was made based on hindsight, not based on what one having

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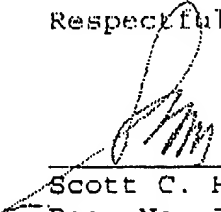
ordinary skill in the art would have understood.

For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited.

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Respectfully submitted,

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